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TRANSMITTAL OF APPEAL BRIEF (Large Entity)	Docket No. 22.1410 (SHL.0114)

In Re Application Of: **Peter A. Goode et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/920,895	08/02/2001	Thomas A. Beach	21906	3671	

Invention: **WELL HAVING A SELF-CONTAINED INTERVENTION SYSTEM**

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Dated: **October 10, 2005**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicants:	Peter A. Goode et al.	§	Art Unit:	3671
Serial No.:	09/920,895	§	Examiner:	Thomas A. Beach
Filed:	August 2, 2001	§		
Title:	WELL HAVING A SELF-CONTAINED INTERVENTION SYSTEM	§	Docket No.	22.1410 (SHL.0114US)

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APPEAL BRIEF

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Janice Munoz

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REAL PARTY IN INTEREST

The real party in interest is the assignee Schlumberger Technology Corporation.

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RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

Claims 10-13, 25, 26, 28, 29, 44-48, 50 and 51 have been finally rejected and are the subject of this appeal.

STATUS OF AMENDMENTS

All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

The method of independent claim 10 recites halting the flow of fluid in a well. As an example, the specification describes a technique 70 to run a tool downhole to perform either tests on a well or some form of corrective action. The technique includes stopping the flow of well fluid from the well, as depicted in block 72 of Fig. 3. Specification, 6.

The method of independent claim 10 recites deploying a tool from within the well while the fluid is halted. Pursuant to the technique 70, electronics 50 selects (pursuant to block 74 of Fig. 3) the appropriate tool from a carousel assembly 40 while the flow of fluid from the well is shut off. Specification, 6.

The method of claim 10 also recites allowing the tool to free fall in the well while the fluid is halted. The specification describes the tool 65 as descending through the well. Specification, 6.

The method of independent claim 10 also recites resuming the flow to retrieve the tool. The specification describes the tool 65a as returning back to the surface of the well after the halting of the flow of fluid. Specification, 7.

The method of independent claim 44 includes halting the flow of fluid in a well, deploying a tool from within the well while the fluid is halted and allowing the tool to free fall in the well while the fluid is halted. Specific examples of the specific acts of halting, deploying and allowing are set forth above in the discussion of claim 10.

The method of independent claim 44 also recites using the tool to measure a property of the well. The specification describes that many different tools may be stored in the carousel, such as a plug setting tool, a pressure and temperature sensing tool, etc. Specification, 6.

The method of independent claim 44 also recites resuming the flow to retrieve the tool. Specific examples of this act is described above in connection with claim 10.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Are Claims 10-13, 25, 26, 28, 29, 44-48, 50 and 51 anticipated by U.S. Patent No. 6,182,765 (Kilgore)?

ARGUMENT

A. Are Claims 10-13, 25, 26, 28, 29, 44-48, 50 and 51 anticipated by U.S. Patent No. 6,182,765 (Kilgore)?

The method of independent claim 10 recites halting the flow of fluid in a well; deploying a tool from within the well while the fluid is halted; allowing the tool to free fall in the well while the fluid is halted; and resuming the flow to retrieve the tool.

The method of independent claim 44 recites halting the flow of fluid in a well; deploying a tool from within the well while the fluid halted; allowing the tool to free fall in the well while the fluid is halted; using the tool to measure a property of the well; and resuming the flow to retrieve the tool.

Independent claims 10 and 44 each stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,182,765 (herein called "Kilgore"). Kilgore generally describes a servicing and completion system 240 for deploying tools in a well. The servicing and completion system 240 includes a tool selector 320 that stores tools and is rotated for purposes of deploying a selected tool into the well. In particular, Kilgore discloses the use of the tool selector 320 to deploy a tool string 315 that includes a tool displacement mechanism 310 and a tool 327.

Contrary to the limitations of independent claim 10, Kilgore fails to disclose halting the flow of fluid in its well in connection with the deployment of the tool string 315. Thus, Kilgore does not disclose the claimed halting of a flow of fluid and deploying a tool within the well while the fluid is halted. Furthermore, Kilgore fails to disclose allowing a tool to free fall in a well while fluid is halted and resuming the flow to retrieve the tool.

The Examiner states that Kilgore inherently teaches halting a flow of fluid in a well to allow the tool string 315 to descend. Final Office Action Mailed on May 04, 2004 (herein called the "Final Office Action"), 2. In support of this position, the Examiner refers to the language (col. 6, line 74 through col. 7, line 6) of Kilgore that recites that well pressure is used to retrieve the tool string 315; and based on this language, the Examiner reaches the untenable conclusion that a flow must be halted in order to allow the tool string 315 to descend. However, contrary to the position taken by the Examiner, the missing claim limitations are not inherent in Kilgore, as for a missing claim limitation to be inherent in a reference, the limitation must *necessarily flow*

from the reference. *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The missing claim limitation does not necessarily flow from Kilgore for at least the reason that Kilgore itself suggests ways to allow the tool string 315 to descend and be retrieved without halting and resuming a flow.

More specifically, regarding the deployment and retrieval of the tool string 315, Kilgore describes, as part of the tool string 315, a surfacing mechanism to return the tool string 315 to the wellhead. Kilgore, 6:11-14. Although Kilgore does not specifically discuss the details of the "surfacing mechanism," one skilled in the art would appreciate that one possible implementation of the surfacing mechanism would be a valve in the main flow passageway of the mechanism. Thus, when the well string 315 descends, the valve is open so that less pressure acts on the well string 315, thereby allowing gravity to cause the well string 315 to descend. This is certainly consistent with Kilgore's discussion of a "gravity effect" on the tool string 315 to cause the tool string 315 to descend. *See, for example*, Kilgore, 5:64-67. Furthermore, Kilgore describes that a tool displacement mechanism 310, such as a tractor mechanism, which may be used to propel the string 315 downhole due to the lack of a gravity effect. Kilgore, 5:64-67. Thus, this is another example of a mechanism to move the tool string 315 downhole, which does rely on flow control.

Kilgore states, "the tool string 315 is allowed to free-fall at least some distance into the well." Kilgore, 5:59-61. In the Final Office Action, the Examiner states that "inherency clearly flows from the reference since free faill (sic) requires the halting of pressurized fluid flow in order for the tool deployment to free fall." Final Office Action, 3. However, the phrase "free fall" does not necessarily mean that Kilgore's tool descends under a gravitational force without a flow being present, as the language "free fall" has no bearing on whether or not a flow is present in the well.

To further illustrate the proper definition and context of "free fall," Kilgore discusses in its Background section three methods to deploy a tool within a well. One of the methods (described in lines 35-51 in column 2) involves the use of a plunger lift system that includes a plunger and a bumper spring, which is deployed inside a production tubing. Kilgore describes that in this plunger lift method the plunger "is allowed to free-fall to the bumper spring." Kilgore, 2:40-41. Kilgore describes that, "the plunger expands to the inside diameter of the flowline and the gas in the well lifts the plunger." *Id.*, 2:41-43. Thus, in the Background section, Kilgore specifically sets forth an example in which an object expands its cross-sectional area for

purposes of permitting a flow to carry the object back to the well surface. It is clear from the language found in lines 35-51 in column 2 of Kilgore that a flow is not halted for purposes of allowing the plunger to "free fall." Rather, the expansion of the plunger controls when the "free fall" ends and the flow catches the plunger to return the plunger to the surface of the well.

Therefore, in view of Kilgore's usage of the language "free fall" in its Background section, it is quite possible that an object may "free fall" through a fluid that is flowing. Thus, contrary to the Examiner's position, Kilgore in no way implies that a flow must be halted in order for a tool to "free fall."

Additionally, lines 10-15 in column 5 of Kilgore, Kilgore discusses that the servicing and completion system 240 is operated "while the well is still in operation." Thus, this passage implies, if not explicitly teaches, that the flow is not halted during the deployment of the tool string 315.

Furthermore, the Background section of Kilgore illustrates a possible embodiment of the surfacing mechanism that is mentioned (lines 11-14 of column 6) in the Detailed Description, i.e., a plunger whose outer diameter expands to match the cross-section of the inner diameter of a flow line to cause an existing well flow to flow the tool back to the surface of the well. Thus, this is another example of why the halting of well fluid is not inherent with the deployment or retrieval of a tool via Kilgore's servicing and completion system 240.

To summarize, Kilgore does not explicitly, implicitly or inherently teach disclose halting a flow in a well while a tool free falls in the well or resuming the flow to retrieve the tool. Therefore, when Kilgore is considered in its entirety and the language "free fall" is placed in the appropriate context, it becomes clear that "free fall" does not mean descending in the absence of a counter flow but rather, means falling under the influence of gravity.

Thus, because Kilgore fails to disclose the acts of halting and resuming of independent claim 10, a *prima facie* case of anticipation has not been established for this claim.

For similar reasons, Kilgore fails to teach acts of halting and resuming of claim 44; and for at least this reason, Kilgore fails to anticipate this claim.

Claims 11-13, 25, 26, 28, 29, 45-48, 50 and 51 are patentable for at least the reason that these claims depend from allowable claims.

Therefore, for at least the reasons that are set forth above, the § 102 rejections of claims 10-13, 25, 26, 28, 29, 44-48, 50 and 51 are improper and should be reversed.

Respectfully submitted,

Date: October 10, 2005

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CLAIMS APPENDIX

The claims on appeal are:

10. A method comprising:
halting the flow of fluid in a well;
deploying a tool from within the well while the fluid is halted;
allowing the tool to free fall in the well while the fluid is halted; and
resuming the flow to retrieve the tool.

11. The method of claim 10, further comprising:
introducing a delay to allow the tool to reach a given depth.

12. The method of claim 10, further comprising:
using the tool to measure a property of the well at a predetermined depth.

25. The method of claim 10, further comprising:
using the tool to perform a test in the well.

26. The method of claim 10, further comprising:
using the tool to take a corrective action in the well.

27. The method of claim 10, further comprising:
triggering the halting in response to a periodic timer.

28. The method of claim 10, further comprising:
triggering the halting in response to a command.

29. The method of claim 10, further comprising:

triggering the halting in response to a previous measurement indicating intervention is needed in the well.

44. A method comprising:

halting the flow of fluid in a well;

deploying a tool from within the well while the fluid is halted;

allowing the tool to free fall in the well while the fluid is halted;

using the tool to measure a property of the well; and

resuming the flow to retrieve the tool.

45. The method of claim 44, further comprising:

introducing a delay to allow the tool to reach a given depth.

46. The method of claim 44, further comprising:

using the tool to measure the property of the well at a predetermined depth.

47. The method of claim 44, further comprising:

using the tool to perform a test in the well.

48. The method of claim 44, further comprising:

using the tool to take a corrective action in the well.

49. The method of claim 44, further comprising:

triggering the halting in response to a periodic timer.

50. The method of claim 44, further comprising:

triggering the halting in response to a command.

51. The method of claim 44, further comprising:

triggering the halting in response to a previous measurement indicating intervention is needed in the well.